

24044

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Vendor # / Name: 1002 Commissioner of Patents

Check Date: 08/15/00

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11613.0012US11

870.00

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Total 870.00

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MERCHANT & GOULD

A Professional Corporation
An Intellectual Property Law Firm
3100 Norwest Center (612) 332-5300
Minneapolis, MN 55402-4131

NORWEST BANK MONTANA, N.A.
Billings, MT 59101

No. 320864

Check Date: 08/15/2000

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TO THE FOLLOWING

Merchant & Gould P.C.

Commissioner of Patents
and Trademarks

Alan W. Kowalsky

Two Signatures Required For Amounts Exceeding \$5,000

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⑈ 320864 ⑈ ⑆092905278⑆ 490019218⑈

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Yoshimura et al.

Examiner: D. Jacobson

Serial No.: 07/330,446

Group Art Unit: 1814

Filed: March 30, 1989

Docket: 11613.12USII

Notice of
Allow. Date:

Batch No.:

Due Date: August 15, 2000

Title: HUMAN DERIVED MONOCYTE ATTRACTING PURIFIED PROTEIN PRODUCT USEFUL
IN A METHOD OF TREATING INFECTION AND NEOPLASM IN A HUMAN BODY, AND
THE CLONING OF FULL LENGTH cDNA THEREOF

CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this Transmittal Letter and the paper, as described herein, are being deposited in the United States Postal Service, as first class mail, with sufficient postage, in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231, on August 15, 2000.

By:

Curtis B. Hamre

Curtis B. Hamre

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

We are transmitting herewith the attached:

- ☒ Transmittal Sheet in duplicate containing Certificate of Mailing
- ☒ Request for Extension of Time for three month(s) and fee of \$870.00
- ☒ Other: Response to Office Action, Change of Address, Copy of postcard acknowledging PTO receipt of Revocation and Power of Attorney
- ☒ Return postcard

Please consider this a PETITION FOR EXTENSION OF TIME for a sufficient number of months to enter these papers, if appropriate. Please charge any additional fees or credit overpayment to Deposit Account No. 13-2725. A duplicate of this sheet is enclosed.

MERCHANT & GOULD P.C.
P.O. Box 2903, Minneapolis, MN 55402-0903
(612) 332-5300



By:

Curtis B. Hamre

Name: Curtis B. Hamre

Reg. No.: 29,165

CBH

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(612) 332-5300



By: Curtis B. Hamre

Name: Curtis B. Hamre

Reg. No.: 29,165

CBH

S/N 07/330,446

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Yoshimura et al.	Examiner:	D. Jacobson
Serial No.:	07/330,446	Group Art Unit:	1814
Filed:	March 30, 1989	Docket No.:	11613.12USI1
Title:	HUMAN DERIVED MONOCYTE ATTRACTING PURIFIED PROTEIN PRODUCT USEFUL IN A METHOD OF TREATING INFECTION AND NEOPLASM IN A HUMAN BODY, AND THE CLONING OF FULL LENGTH cDNA THEREOF		

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By:

Name: Curtis B. Hamre

RESPONSE

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

The following comments are presented in response to the Office Action of February 15, 2000.

Claims 21-25 have been rejected for lack of written description. This rejection is respectfully traversed. The rejection questions whether the present specification provides evidence that the present applicants were "in possession" of the invention of claims 21-25, i.e. material isolated from primate, murine, porcine, equine or bovine sources rather than human sources. Applicants respectfully submit that the present specification is more than adequate to satisfy the written description requirement.

The present specification clearly discusses multiple sources for the present materials. The discussion at page 12 of the specification evidences the recognition by the present

inventors that the MCP would be available from sources other than human sources. The specification also reports the procedure for the successful isolation and purification of the MCP, including actual experimental examples. Applicants respectfully contend that nothing in the present record rebuts the teaching in the present specification that corresponding procedures could be used to isolate and purify the MCP from the other sources.

It can be seen that the present inventors both (a) identified the alternate sources specifically and (b) provided clear and direct teachings as to the procurement of the desired materials. Thus, there can be no question that the inventors both fully contemplated the invention of the claims in question and knew how to obtain it. The specification therefore should be considered to provide a constructive reduction to practice of the invention of claims 21-25 and satisfy the written description requirement.

The pending claims have been rejected for obviousness double patenting over SN 07/686,264. Applicants note that this application now has issued as US Patent No. 6,090,795. Applicants will submit an appropriate Terminal Disclaimer upon receiving an indication that all other issues in the present application have been resolved.

Applicants further note that the February 15, 2000 Office Action was mailed to Gerald Murphy of Birch, Stewart, Kolasch and Birch. However, a revocation of the power of attorney to the Birch Stewart firm and appointment of attorney in favor of Merchant & Gould was submitted in June of 1997. A copy of the relevant postcard, stamped to acknowledge receipt by the PTO, accompanies this Response. In addition, the previous Amendment in this application pointed out the earlier appointment of new attorneys. The mailing of the Office Action to a firm that had not been involved with the application for several years resulted in significant delays in the handling of the Office Action. As such, Applicants respectfully request

that the Office Action be remailed, and a new time period for response set. Alternatively, Applicants respectfully request that the extension fee for this paper be refunded to Deposit Account 13-2725, and that, if the application is not considered allowable, any further action be made non-final.

Applicants note that a further change of address is filed herewith.

Respectfully submitted,

MERCHANT & GOULD P.C.
3100 Norwest Center
90 South 7th Street
Minneapolis, Minnesota 55402
(612) 371-5237

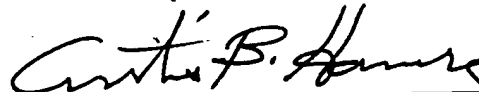
Dated: August 15, 2000 By: Curtis B. Hamre
Curtis B. Hamre
Reg. No. 29,165
CBH

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Curtis B. Hamre

PETITION FOR EXTENSION OF TIME

Assistant Commissioner for Patents
Washington, D.C. 20231

Dear Sir:

In accordance with the provisions of 37 C.F.R. §1.136(a), it is respectfully requested that a three-month extension of time be granted in which to respond to the outstanding Office Action mailed February 15, 2000, said period of response being extended from May 15, 2000 to August 15, 2000.

Our check in the amount of \$870.00 is enclosed to cover the required extension fee for a large entity.

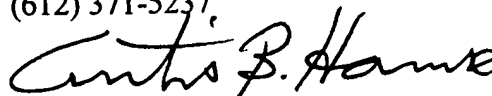


Respectfully submitted,

MERCHANT & GOULD P.C.
3100 Norwest Center
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Minneapolis, Minnesota 55402
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Dated Aug 15, 2000

By:



Curtis B. Hamre
Reg No.: 29,165